

AMENDED IN ASSEMBLY JUNE 27, 2003

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE MARCH 27, 2003

SENATE BILL

No. 183

Introduced by Senator Sher

February 12, 2003

An act to amend Section 25401.6 of, and to add Chapter 8.6 (commencing with Section 25740) to Division 15 of, the Public Resources Code, and to amend Sections 383.6, 394.25, 399.6, ~~and 399.8~~ 399.8, *and* 399.12 of, and to repeal Sections 383.5, 383.7, 399.6, 399.8, and 445 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 183, as amended, Sher. Energy: renewable technologies.

Under the Public Utilities Act, the Public Utilities Commission requires electrical corporations to identify a separate rate component to fund in-state operation and development of existing and new and emerging renewable resources technologies. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing law requires specified electrical corporations to collect specific amounts to support in-state operation and development of existing and new and emerging renewable resources technologies. Existing law also requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected for in-state operation and development of existing and new and emerging renewable resources technologies into the Renewable Resource Trust Fund. Existing law requires that 17.5% of the funds collected to accomplish the funding of in-state operation and

development of existing and new and emerging renewable resources technologies, after deducting certain administrative costs, be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications by providing monetary rebates, buydowns, or equivalent incentives. The Emerging Renewable Resources Account is established within the Renewable Resource Trust Fund, to accomplish these purposes.

This bill would recast those provisions in the Public Resources Code, except for certain provisions authorizing the Energy Commission to determine that a renewable electricity generation technology facility located outside the state is eligible for funding. The bill would require the Energy Commission, at least once annually, to publish and make available to the public the balance of funds available for emerging renewable energy resources for rebates, buydowns, and other incentives for the purchase of these resources. The bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25401.6 of the Public Resources Code
- 2 is amended to read:
- 3 25401.6. (a) In its administration of Section 25744, the
- 4 commission shall establish a separate rebate for eligible
- 5 distributed emerging technologies for affordable housing projects
- 6 including, but not limited to, projects undertaken pursuant to
- 7 Section 50052.5, 50053, or 50199.4 of the Health and Safety
- 8 Code. In establishing the rebate, where the commission
- 9 determines that the occupants of the housing shall have individual
- 10 meters, the commission may adjust the amount of the rebate based
- 11 on the capacity of the system, provided that a system may receive
- 12 a rebate only up to 75 percent of the total installed costs. The
- 13 commission may establish a reasonable limit on the total amount
- 14 of funds dedicated for purposes of this section.
- 15 (b) It is the intent of the Legislature that this section fulfills the
- 16 purpose of paragraph (5) of subdivision (b) of Section 25744.
- 17 SEC. 2. Chapter 8.6 (commencing with Section 25740) is
- 18 added to Division 15 of the Public Resources Code, to read:
- 19



CHAPTER 8.6. RENEWABLE ENERGY RESOURCES PROGRAM

25740. It is the intent of the Legislature in establishing this program, to increase the amount of renewable electricity generated per year, so that it equals at least 17 percent of the total electricity generated for consumption in California per year by 2006.

25741. As used in this chapter, the following terms have the following meaning:

(a) “In-state renewable electricity generation facility” means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility is located in the state or near the border of the state with the first point of connection to the Western Electricity Coordinating Council (WECC) transmission system located within this state.

(3) For the purposes of this subdivision, “solid waste conversion” means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801.1 of the Health and Safety Code.

(C) The technology produces no discharges to surface or groundwaters of the state.

(D) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

1 (F) The facility at which the technology is used is in
2 compliance with all applicable laws, regulations, and ordinances.

3 (G) The technology meets any other conditions established by
4 the commission.

5 (H) The facility certifies that any local agency sending solid
6 waste to the facility ~~is in compliance with Division 30~~
7 ~~(commencing with Section 40000), has reduced, recycled, or~~
8 ~~composted solid waste to the maximum extent feasible, and shall~~
9 ~~have been found by the California Integrated Waste Management~~
10 ~~Board to have diverted at least 30 percent of all solid waste through~~
11 ~~source reduction, recycling, and composting.~~ *diverted at least 30*
12 *percent of all solid waste it collects through solid waste reduction,*
13 *recycling, and composting. For purposes of this paragraph “local*
14 *agency” means any city, county, or special district, or subdivision*
15 *thereof, which is authorized to provide solid waste handling*
16 *services.*

17 (b) “Renewable energy public goods charge” means that
18 portion of the nonbypassable system benefits charge authorized to
19 be collected and to be transferred to the Renewable Resource Trust
20 Fund pursuant to the Reliable Electric Service Investments Act
21 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part
22 1 of Division 1 of the Public Utilities Code).

23 (c) “Report” means the report entitled “Investing in
24 Renewable Electricity Generation in California” (June 2001,
25 Publication Number P500-00-022) submitted to the Governor and
26 the Legislature by the commission.

27 25742. (a) Twenty percent of the funds collected pursuant to
28 the renewable energy public goods charge shall be used for
29 programs that are designed to improve the competitiveness of
30 existing in-state renewable electricity generation facilities, and to
31 secure for the state the environmental, economic, and reliability
32 benefits that continued operation of those facilities will provide.
33 Eligibility for incentives under this section shall be limited to those
34 technologies found eligible for funds by the commission pursuant
35 to paragraphs (5), (6), and (8) of subdivision (c) of Section 399.6
36 of the Public Utilities Code.

37 (b) Any funds used to support in-state renewable electricity
38 generation facilities pursuant to this section shall be expended in
39 accordance with the provisions of the report, subject to all of the
40 following requirements:

1 (1) Of the funding for existing renewable electricity generation
2 facilities available pursuant to this section, 75 percent shall be used
3 to fund first tier technologies, including biomass and solar electric
4 technologies and 25 percent shall be used to fund second tier wind
5 technologies.

6 (2) The commission shall reexamine the tier structure as
7 proposed in the report and adjust the structure to reflect market and
8 contractual conditions. The commission shall also consider
9 inflation when adjusting the structure.

10 (3) The commission shall establish a cents per kilowatthour
11 production incentive, not to exceed the payment caps per
12 kilowatthour established in the report, as those payment caps are
13 revised in guidelines adopted by the commission, representing the
14 difference between target prices and the price paid for electricity,
15 if sufficient funds are available. If there are insufficient funds in
16 any payment period to pay either the difference between the target
17 and price paid for electricity or the payment caps, production
18 incentives shall be based on the amount determined by dividing
19 available funds by eligible generation. The price paid for
20 electricity shall be determined by the commission based on the
21 energy prices paid to nonutility power generators as authorized by
22 the Public Utilities Commission, or on otherwise available
23 measures of price. For the first tier technologies, the commission
24 shall establish a time-differentiated incentive structure that
25 encourages plants to run the maximum feasible amount of time and
26 that provides a higher incentive when the plants are receiving the
27 lowest price.

28 (4) Facilities that are eligible to receive funding pursuant to this
29 section shall be registered in accordance with criteria developed by
30 the commission and those facilities may not receive payments for
31 any electricity produced that has any of the following
32 characteristics:

33 (A) Is sold at monthly average rates equal to or greater than the
34 applicable target price, as determined by the commission.

35 (B) Is that portion of electricity generation attributable to the
36 use of qualified agricultural biomass fuel, for a facility that is
37 receiving fuel-based incentives through the Agricultural
38 Biomass-to-Energy Incentive Grant Program established pursuant
39 to Part 3 (commencing with Section 1101) of Division 1 of the
40 Food and Agricultural Code. Notwithstanding subdivision (f) of

1 Section 1104 of the Food and Agricultural Code, facilities that
2 receive funding from the Agricultural Biomass-to-Energy
3 Incentive Grant Program are eligible to receive funding pursuant
4 to this section.

5 (C) Is used onsite or is sold to customers in a manner that
6 excludes competitive transition charge payments, or is otherwise
7 excluded from competitive transition charge payments.

8 25743. (a) Fifty-one and one-half percent of the money
9 collected pursuant to the renewable energy public goods charge,
10 shall be used for programs designed to foster the development of
11 new in-state renewable electricity generation facilities, and to
12 secure for the state the environmental, economic, and reliability
13 benefits that operation of those facilities will provide.

14 (b) Any funds used for new in-state renewable electricity
15 generation facilities pursuant to this section shall be expended in
16 accordance with the report, subject to all of the following
17 requirements:

18 (1) In order to cover the above market costs of renewable
19 resources as approved by the Public Utilities Commission and
20 selected by retail sellers to fulfill their obligations under Article 16
21 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
22 Division 1 of the Public Utilities Code, the commission shall
23 award funds in the form of supplemental energy payments, subject
24 to the following criteria:

25 (A) The commission may establish caps on supplemental
26 energy payments. The caps shall be designed to provide for a
27 viable energy market capable of achieving the goals of Article 16
28 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of the
29 Public Utilities Code. The commission may waive application of
30 the caps to accommodate a facility, if it is demonstrated to the
31 satisfaction of the commission, that operation of the facility would
32 provide substantial economic and environmental benefits to
33 end-use customers subject to the funding requirements of ~~Section~~
34 ~~381 of the Public Utilities Code~~ *the renewable energy public goods*
35 *charge*.

36 (B) Supplemental energy payments shall be awarded only to
37 facilities that are eligible for funding under this subdivision.

38 (C) Supplemental energy payments awarded to facilities
39 selected by an electrical corporation pursuant to Article 16
40 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of

1 Division 1 of the Public Utilities Code shall be paid for the lesser
2 of 10 years, or the duration of the contract with the electrical
3 corporation.

4 (D) The commission shall reduce or terminate supplemental
5 energy payments for projects that fail either to commence and
6 maintain operations consistent with the contractual obligations to
7 an electrical corporation, or that fail to meet eligibility
8 requirements.

9 (E) Funds shall be managed in an equitable manner in order for
10 retail sellers to meet their obligation under Article 16
11 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
12 Division 1 of the Public Utilities Code.

13 (2) Facilities that are eligible to receive funding pursuant to this
14 subdivision shall be registered in accordance with criteria
15 developed by the commission and those facilities may not receive
16 payments for any electricity produced that has any of the following
17 characteristics:

18 (A) Is sold under an existing long-term contract with an
19 existing in-state electrical corporation if the contract includes
20 fixed energy or capacity payments, except for that electricity that
21 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of
22 Section 399.6 of the Public Utilities Code.

23 (B) Is used onsite or is sold to customers in a manner that
24 excludes competitive transition charge payments, or is otherwise
25 excluded from competitive transition charge payments.

26 (C) Is produced by a facility that is owned by an electrical
27 corporation or a local publicly owned electric utility as defined in
28 subdivision (d) of Section 9604 of the Public Utilities Code.

29 (D) Is a hydroelectric generation project that will require a new
30 or increased appropriation of water under Part 2 (commencing
31 with Section 1200) of Division 2 of the Water Code.

32 (E) *Is a solid waste conversion facility, unless the facility meets*
33 *the criteria established in paragraph (3) of subdivision (a) of*
34 *Section 25741 and the facility certifies that any local agency*
35 *sending solid waste to the facility is in compliance with Division*
36 *30 (commencing with Section 40000), has reduced, recycled, or*
37 *composted solid waste to the maximum extent feasible, and shall*
38 *have been found by the California Integrated Waste Management*
39 *Board to have diverted at least 30 percent of all solid waste through*
40 *source reduction, recycling, and composting.*

1 ~~(4)–~~

2 (3) Eligibility to compete for funds or to receive funds shall be
3 contingent upon having to sell the output of the renewable
4 electricity generation facility to customers subject to the funding
5 requirements of ~~Section 381 of the Public Utilities Code~~ *the*
6 *renewable energy public goods charge*.

7 ~~(5)–~~

8 (4) The commission may require applicants competing for
9 funding to post a forfeitable bid bond or other financial guaranty
10 as an assurance of the applicant's intent to move forward
11 expeditiously with the project proposed. The amount of any bid
12 bond or financial guaranty may not exceed 10 percent of the total
13 amount of the funding requested by the applicant.

14 ~~(6)–~~

15 (5) In awarding funding, the commission may provide
16 preference to projects that provide tangible demonstrable benefits
17 to communities with a plurality of minority or low-income
18 populations.

19 (c) Repowered existing facilities shall be eligible for funding
20 under this subdivision if the capital investment to repower the
21 existing facility equals at least 80 percent of the value of the
22 repowered facility.

23 (d) Facilities engaging in the *direct* combustion of municipal
24 solid waste or tires are not eligible for funding under this
25 subdivision.

26 (e) Production incentives awarded under this subdivision prior
27 to January 1, 2002, shall commence on the date that a project
28 begins electricity production, provided that the project was
29 operational prior to January 1, 2002, unless the commission finds
30 that the project will not be operational prior to January 1, 2002, due
31 to circumstances beyond the control of the developer. Upon
32 making a finding that the project will not be operational due to
33 circumstances beyond the control of the developer, the
34 commission shall pay production incentives over a five-year
35 period, commencing on the date of operation, provided that the
36 date that a project begins electricity production may not extend
37 beyond January 1, 2007.

38 (f) Facilities generating electricity from biomass energy shall
39 be considered an in-state renewable electricity generation
40 technology facility to the extent that they report to the commission

the types and quantities of biomass fuels used and certify to the satisfaction of the commission that fuel utilization is limited to the following:

(1) Agricultural crops and agricultural wastes and residues.

(2) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.

(3) Wood and wood wastes that meet all of the following requirements:

(A) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Sec. 4511) of Part 2 of Division 4).

(B) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(C) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

25744. (a) Seventeen and one-half percent of the money collected pursuant to the renewable energy public goods charge shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.

(b) Any funds used for emerging technologies pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) Funding for emerging technologies shall be provided through a competitive, market-based process that shall be in place for a period of not less than five years, and shall be structured so as to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(2) The program shall provide monetary rebates, buydowns, or equivalent incentives, subject to subparagraph (C), to purchasers, lessees, lessors, or sellers of eligible electricity generating

1 systems. Incentives shall benefit the end-use consumer of
2 renewable generation by directly and exclusively reducing the
3 purchase or lease cost of the eligible system, or the cost of
4 electricity produced by the eligible system. Incentives shall be
5 issued on the basis of the rated electrical generating capacity of the
6 system measured in watts, or the amount of electricity production
7 of the system, measured in kilowatthours. Incentives shall be
8 limited to a maximum percentage of the system price, as
9 determined by the commission.

10 (3) Eligible distributed emerging technologies are
11 photovoltaic, solar thermal electric, fuel cell technologies that
12 utilize renewable fuels, and wind turbines of not more than 50
13 kilowatts rated electrical generating capacity per customer site,
14 and other distributed renewable emerging technologies that meet
15 the emerging technology eligibility criteria established by the
16 commission. Eligible electricity generating systems are intended
17 primarily to offset part or all of the consumer's own electricity
18 demand, and shall not be owned by local publicly owned electric
19 utilities, nor be located at a customer site that is not receiving
20 distribution service from an electrical corporation that is subject
21 to ~~Section 381 of the Public Utilities Code~~ *the renewable energy*
22 *public goods charge* and contributing funds to support programs
23 under this chapter. All eligible electricity generating system
24 components shall be new and unused, shall not have been
25 previously placed in service in any other location or for any other
26 application, and shall have a warranty of not less than five years
27 to protect against defects and undue degradation of electrical
28 generation output. Systems and their fuel resources shall be
29 located on the same premises of the end-use consumer where the
30 consumer's own electricity demand is located, and all eligible
31 electricity generating systems shall be connected to the utility grid
32 in California. The commission may require eligible electricity
33 generating systems to have meters in place to monitor and measure
34 a system's performance and generation. Only systems that will be
35 operated in compliance with applicable law and the rules of the
36 Public Utilities Commission shall be eligible for funding.

37 (4) The commission shall limit the amount of funds available
38 for any system or project of multiple systems and reduce the level
39 of funding for any system or project of multiple systems that has



received, or may be eligible to receive, any government or utility funds, incentives, or credit.

(5) In awarding funding, the commission may provide preference to systems that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(6) In awarding funding, the commission shall develop and implement eligibility criteria and a system that provides preference to systems based upon system performance, taking into account factors, including, but not limited to, shading, insulation levels, and installation orientation.

(7) At least once annually, the commission shall publish and make available to the public the balance of funds available for emerging renewable energy resources for rebates, buydowns, and other incentives for the purchase of these resources.

25745. (a) Ten percent of the money collected pursuant to the renewable energy public goods charge shall be used to provide customer credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

(b) Any funds used for customer credits pursuant to this section shall be expended, as provided in the report, subject to all of the following requirements:

(1) Customer credits shall be awarded to California retail customers located in the service territory of an electrical corporation that is subject to ~~Section 381 of the Public Utilities Code~~ *the renewable energy public goods charge* that is contributing funds to support programs under this chapter, and that is purchasing qualifying electricity from renewable electricity generating facilities, through transactions traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity from the claimed renewable electricity generating facilities has been sold once and only once to a retail customer.

(2) Credits awarded pursuant to this paragraph may be paid directly to electric service providers, energy marketers, aggregators, or generators if those persons or entities account for the credits on the recipient customer's bills. Credits may not exceed one and one-half cents (\$0.015) per kilowatthour. Credits

1 awarded to members of the combined class of customers, other
2 than residential and small commercial customers, may not exceed
3 one thousand dollars (\$1,000) per customer per calendar year. In
4 no event may more than 20 percent of the total customer incentive
5 funds be awarded to members of the combined class of customers
6 other than residential and small commercial customers.

7 (3) The commission shall develop criteria and procedures for
8 the identification of energy purchasers and providers that are
9 eligible to receive funds pursuant to this paragraph through a
10 process consistent with this paragraph. These criteria and
11 procedures shall apply only to funding eligibility and may not
12 extend to other renewable marketing claims.

13 (4) Customer credits may not be awarded for the purchase of
14 electricity that is used to meet the obligations of a renewable
15 portfolio standard.

16 (5) The Public Utilities Commission shall notify the
17 commission in writing within 10 days of revoking or suspending
18 the registration of any electric service provider pursuant to
19 paragraph (4) of subdivision (b) of Section 394.25 of the Public
20 Utilities Code.

21 (6) By March 31, 2003, the commission shall report to the
22 Governor and the Legislature on how to most effectively utilize the
23 funds for customer credits, including whether, and under what
24 conditions, the program should be continued. The report shall
25 include an examination of trends in markets for renewable energy,
26 including the trading of nonenergy attributes, and the role of
27 customer credits in these markets. The report will recommend an
28 appropriate funding allocation for the customer credits and how
29 implementation of the customer credits should be structured, if
30 appropriate.

31 25746. One percent of the money collected pursuant to the
32 renewable energy public goods charge shall be used in accordance
33 with the report to promote renewable energy and disseminate
34 information on renewable energy technologies, including
35 emerging renewable technologies, and to help develop a consumer
36 market for renewable energy and for small-scale emerging
37 renewable energy technologies.

38 25747. (a) The commission shall adopt guidelines governing
39 the funding programs authorized under this chapter, at a publicly
40 noticed meeting offering all interested parties an opportunity to

comment. Substantive changes to the guidelines may not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this subdivision may not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Legislature declares that the changes made to this subdivision by the act amending this section during the 2002 portion of the 2001–02 Regular Session are declaratory of, and not a change in existing law.

(b) Funds to further the purposes of this chapter may be committed for multiple years.

(c) Awards made pursuant to this chapter are grants, subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and registered to receive, payments or awards, including satisfying conditions specified by the commission, shall not constitute the rendering of goods, services, or a direct benefit to the commission.

25748. The commission shall report to the Legislature on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this chapter. Reports prepared pursuant to this section shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The report shall identify the types and quantities of biomass fuels used by facilities receiving funds pursuant to Section 25743 and their impacts on improving air quality. The reports shall discuss the progress being made toward achieving the 17-percent target provided in Section 25740 by each funding category authorized pursuant to this chapter. The reports shall also address the allocation of funds from interest on the accounts described in this chapter, and money in the accounts described in subdivision ~~(e)~~ (b) of Section ~~381 of the Public Utilities Code~~ 25751. Money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a

1 manner consistent with the report and with the latest report
2 provided to the Legislature pursuant to this section, except that
3 reallocations may not reduce the allocation established in Section
4 25743 nor increase the allocation established in Section 25742.

5 25749. The commission shall, by December 1, 2003, prepare
6 and submit to the Legislature a comprehensive renewable
7 electricity generation resource plan that describes the renewable
8 resource potential available in California, and recommendations
9 for a plan for development to achieve the target of increasing the
10 amount of electricity generated from renewable sources per year,
11 so that it equals 17 percent of the total electricity generated for
12 consumption in California by 2006. The commission shall consult
13 with the Public Utilities Commission, electrical corporations, and
14 the Independent System Operator, in the development and
15 preparation of the plan.

16 25750. The commission shall participate in proceedings at the
17 Public Utilities Commission that relate to or affect efforts to
18 stimulate the development of electricity generated from renewable
19 sources, in order to obtain coordination of the state's efforts to
20 achieve the target of increasing the amount of electricity generated
21 from renewable sources per year, so that it equals 17 percent of the
22 total electricity generated for consumption in California by 2006.

23 25751. (a) The Renewable Resource Trust Fund is hereby
24 created in the State Treasury.

25 (b) The following accounts are hereby established within the
26 Renewable Resource Trust Fund:

- 27 (1) The Existing Renewable Resources Account.
- 28 (2) New Renewable Resources Account.
- 29 (3) Emerging Renewable Resources Account.
- 30 (4) Customer-Credit Renewable Resource Purchases Account.
- 31 (5) Renewable Resources Consumer Education Account.

32 (c) The money in the fund may be expended for the state's
33 administration of this article only upon appropriation by the
34 Legislature in the annual Budget Act.

35 (d) Notwithstanding Section 383, that portion of revenues
36 collected by electrical corporations for the benefit of in-state
37 operation and development of existing and new and emerging
38 renewable resource technologies, pursuant to Section 399.8 of the
39 Public Utilities Code, shall be transmitted to the commission at
40 least quarterly for deposit in the Renewable Resource Trust Fund

1 pursuant to Section 399.6 of the Public Utilities Code. After
2 setting aside in the fund money that may be needed for
3 expenditures authorized by the annual Budget Act in accordance
4 with subdivision (c), the Treasurer shall immediately deposit
5 money received pursuant to this section into the accounts created
6 pursuant to subdivision (b) in proportions designated by the
7 commission for the current calendar year. Notwithstanding
8 Section 13340 of the Government Code, the money in the fund and
9 the accounts within the fund are hereby continuously appropriated
10 to the commission without regard to fiscal year for the purposes
11 enumerated in this chapter.

12 (e) Upon notification by the commission, the Controller shall
13 pay all awards of the money in the accounts created pursuant to
14 subdivision (b) for purposes enumerated in this chapter. The
15 eligibility of each award shall be determined solely by the
16 commission based on the procedures it adopts under this chapter.
17 Based on the eligibility of each award, the commission shall also
18 establish the need for a multiyear commitment to any particular
19 award and so advise the Department of Finance. Eligible awards
20 submitted by the commission to the Controller shall be
21 accompanied by information specifying the account from which
22 payment should be made and the amount of each payment; a
23 summary description of how payment of the award furthers the
24 purposes enumerated in this chapter; and an accounting of future
25 costs associated with any award or group of awards known to the
26 commission to represent a portion of a multiyear funding
27 commitment.

28 (f) The commission may transfer funds between accounts for
29 cashflow purposes, provided that the balance due each account is
30 restored and the transfer does not adversely affect any of the
31 accounts. The commission shall examine the cashflow in the
32 respective accounts on an annual basis, and shall annually prepare
33 and submit to the Legislature a report that describes the status of
34 account transfers and repayments.

35 (g) The commission shall, on a quarterly basis, report to the
36 Legislature on the implementation of this article. Those quarterly
37 reports shall be submitted to the Legislature not more than 30 days
38 after the close of each quarter and shall include information
39 describing the awards submitted to the Controller for payment
40 pursuant to this article, the cumulative commitment of claims by

1 account, the relative demand for funds by account, a forecast of
2 future awards, and other matters the commission determines may
3 be of importance to the Legislature.

4 (h) The Department of Finance, commencing March 1, 1999,
5 shall conduct an independent audit of the Renewable Resource
6 Trust Fund and its related accounts annually, and provide an audit
7 report to the Legislature not later than March 1 of each year for
8 which this article is operative. The Department of Finance's report
9 shall include information regarding revenues, payment of awards,
10 reserves held for future commitments, unencumbered cash
11 balances, and other matters that the Director of Finance determines
12 may be of importance to the Legislature.

13 SEC. 3. Section 383.5 of the Public Utilities Code is repealed.

14 SEC. 4. Section 383.6 of the Public Utilities Code is amended
15 to read:

16 383.6. The commission shall, by December 1, 2003, prepare
17 and submit to the Legislature, a comprehensive transmission plan
18 for renewable electricity generation facilities, to provide for the
19 rational, orderly, cost-effective expansion of transmission
20 facilities that may be necessary to facilitate the development of
21 renewable electricity generation facilities identified in the
22 renewable electricity generation resource plan prepared pursuant
23 to Section 25749 of the Public Resources Code. The commission
24 shall consult with the State Energy Resources Conservation and
25 Development Commission, the Independent System Operator, and
26 electrical corporations in the development of and preparation of
27 the plan.

28 SEC. 5. Section 383.7 of the Public Utilities Code is repealed.

29 SEC. 6. Section 394.25 of the Public Utilities Code is
30 amended to read:

31 394.25. (a) The commission may enforce the provisions of
32 Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against
33 electric service providers as if those electric service providers were
34 public utilities as defined in these code sections. Notwithstanding
35 the above, nothing in this section grants the commission
36 jurisdiction to regulate electric service providers other than as
37 specifically set forth in this part. Electric service providers shall
38 continue to be subject to the provisions of Sections 2111 and 2112.
39 Upon a finding by the commission's executive director that there
40 is evidence to support a finding that the electric service provider



has committed an act constituting grounds for suspension or revocation of registration as set forth in subdivision (b) of Section 394.25, the commission shall notify the electric service provider in writing and notice an expedited hearing on the suspension or revocation of the electric service provider's registration to be held within 30 days of the notification to the electric service provider of the executive director's finding of evidence to support suspension or revocation of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

(b) An electric service provider may have its registration suspended or revoked, immediately or prospectively, in whole or in part, for any of the following acts:

(1) Making material misrepresentations in the course of soliciting customers, entering into service agreements with those customers, or administering those service agreements.

(2) Dishonesty, fraud, or deceit with the intent to substantially benefit the electric service provider or its employees, agents, or representatives, or to disadvantage retail electric customers.

(3) Where the commission finds that there is evidence that the electric service provider is not financially or operationally capable of providing the offered electric service.

(4) The misrepresentation of a material fact by an applicant in obtaining a registration pursuant to Section 394.

(c) Pursuant to its authority to revoke or suspend registration, the commission may suspend a registration for a specified period or revoke the registration, or in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers. Any suspension or revocation of a registration shall require the electric service provider to cease serving customers within the boundaries of investor-owned electric corporations, and the affected customers shall be served by the electrical corporation until the time when they may select service from another service provider. Customers shall not be liable for the payment of any early termination fees or other penalties to any electric service provider under the service agreement if the serving electric service provider's registration is suspended or revoked.

1 (d) The commission shall require any electric service provider
2 whose registration is revoked pursuant to paragraph (4) of
3 subdivision (b) to refund all of the customer credit funds that the
4 electric service provider received from the State Energy Resources
5 Conservation and Development Commission pursuant to
6 subdivision (a) of Section 25744 of the *Public Resources Code*.
7 The repayment of these funds shall be in addition to all other
8 penalties and fines appropriately assessed the electric service
9 provider for committing those acts under other provisions of law.
10 All customer credit funds refunded under this subdivision shall be
11 deposited in the Renewable Resource Trust Fund for redistribution
12 by the State Energy Resources Conservation and Development
13 Commission pursuant to Chapter 8.6 (commencing with Section
14 25740) of Division 15 of the *Public Resources Code*. This
15 subdivision may not be construed to apply retroactively.

16 (e) If a customer of an electric service provider or a community
17 choice aggregator is involuntarily returned to service provided by
18 an electrical corporation, any reentry fee imposed on that customer
19 that the commission deems is necessary to avoid imposing costs on
20 other customers of the electric corporation shall be the obligation
21 of the electric service provider or a community choice aggregator,
22 except in the case of a customer returned due to default in payment
23 or other contractual obligations or because the customer's contract
24 has expired. As a condition of its registration, an electric service
25 provider or a community choice aggregator shall post a bond or
26 demonstrate insurance sufficient to cover those reentry fees. In the
27 event that an electric service provider becomes insolvent and is
28 unable to discharge its obligation to pay reentry fees, the fees shall
29 be allocated to the returning customers.

30 SEC. 7. Section 399.6 of the *Public Utilities Code*, as added
31 by Section 4 of Chapter 1050 of the *Statutes of 2000*, is repealed.

32 SEC. 8. Section 399.6 of the *Public Utilities Code*, as
33 amended by Section 192 of Chapter 664 of the *Statutes of 2002*,
34 is amended to read:

35 399.6. (a) In order to optimize public investment and ensure
36 that the most cost-effective and efficient investments in renewable
37 resources are vigorously pursued, the Energy Commission shall
38 create an investment plan as set forth in paragraphs (1) to (3),
39 inclusive, to govern the allocation of funds provided pursuant to
40 this article. The Energy Commission's long-term goal shall be a



1 fully competitive and self-sustaining California renewable energy
2 supply. The investment plan shall be in accordance with all of the
3 following:

4 (1) The investment plan's objective shall be to increase, in the
5 near term, the quantity of California's electricity generated by
6 in-state renewable energy resources, while protecting system
7 reliability, fostering resource diversity, and obtaining the greatest
8 environmental benefits for California residents.

9 (2) An additional objective of the plan shall be to identify and
10 support emerging renewable energy technologies that have the
11 greatest near-term commercial promise and that merit targeted
12 assistance.

13 (3) The investment plan shall contain specific numerical
14 targets, reflecting the projected impact of the plan, for both of the
15 following:

16 (A) Increased quantity of California electrical generation
17 produced from emerging technologies and from overall renewable
18 resources.

19 (B) Increased supply of renewable generation available from
20 facilities other than those selling to investor-owned utilities under
21 contracts entered into prior to 1996 under the federal Public
22 Utilities Regulatory Policies Act of 1978 (P.L. 95-617).

23 (b) The Energy Commission shall, on an annual basis, evaluate
24 progress on meeting the targets set forth in subparagraphs (A) and
25 (B) of paragraph (3) of subdivision (a), or any substitute provisions
26 adopted by the Legislature upon review of the investment plan,
27 and assess the impact of the investment plan on reducing the cost
28 to Californians of renewable energy generation.

29 (c) In preparing these investment plans, the Energy
30 Commission shall recommend allocations among all of the
31 following:

32 (1) (A) Except as provided in subparagraph (B), production
33 incentives for new renewable energy, including repowered or
34 refurbished renewable energy.

35 (B) Allocations may not be made for renewable energy that is
36 generated by a project that remains under a power purchase
37 contract with an electrical corporation originally entered into prior
38 to September 24, 1996, whether amended or restated thereafter.

39 (C) Notwithstanding subparagraph (B), production incentives
40 for incremental new, repowered, or refurbished renewable energy

1 from existing projects under a power purchase contract with an
2 electrical corporation originally entered into prior to September
3 24, 1996, whether amended or restated thereafter, may be allowed
4 in any month, if all of the following occur:

5 (i) The project's power purchase contract provides that all
6 energy delivered and sold under the contract is paid at a price that
7 does not exceed commission-approved short-run avoided cost of
8 energy.

9 (ii) Either of the following:

10 (I) The power purchase contract is amended to provide that the
11 kilowatthours used to determine the capacity payment in any
12 time-of-delivery period in any month under the contract shall be
13 equal to the actual kilowatthour production, but no greater than the
14 five-year average of the kilowatthours delivered for the
15 corresponding time-of-delivery period and month, in the years
16 1994 to 1998, inclusive.

17 (II) If a project's installed capacity as of December 31, 1998,
18 is less than 75 percent of the nameplate capacity as stated in the
19 power purchase contract, the power purchase contract is amended
20 to provide that the kilowatthours used to determine the capacity
21 payment in any time-of-delivery period in any month under the
22 contract shall be equal to the actual kilowatthour production, but
23 no greater than the product of the five-year average of the
24 kilowatthours delivered for the corresponding time-of-delivery
25 period and month, in the years 1994 to 1998, inclusive, and the
26 ratio of installed capacity as of December 31 of the previous year,
27 but not to exceed contract nameplate capacity, to the installed
28 capacity as of December 31, 1998.

29 (iii) The production incentive is payable only with respect to
30 the kilowatthours delivered in a particular month that exceeds the
31 corresponding five-year average calculated pursuant to clause (ii).

32 (2) Rebates, buydowns, or equivalent incentives for emerging
33 renewable technologies.

34 (3) Customer credits for renewables not under contract with a
35 utility.

36 (4) Customer education.

37 (5) Incentives for reducing fuel costs that are confirmed to the
38 satisfaction of the Energy Commission at solid fuel biomass
39 energy facilities in order to provide demonstrable environmental
40 and public benefits, including, but not limited to, air quality.

1 (6) Solar thermal generating resources that enhance the
2 environmental value or reliability of the electrical system and that
3 require financial assistance to remain economically viable, as
4 determined by the Energy Commission. The Energy Commission
5 may require financial disclosure from applicants for purposes of
6 this paragraph.

7 (7) Specified fuel cell technologies, if the Energy Commission
8 makes all of the following findings:

9 (A) The specified technologies have similar or better air
10 pollutant characteristics than renewable technologies in the
11 investment plan.

12 (B) The specified technologies require financial assistance to
13 become commercially viable by reference to wholesale generation
14 prices.

15 (C) The specified technologies could contribute significantly
16 to the infrastructure development or other innovation required to
17 meet the long-term objective of a self-sustaining, competitive
18 supply of renewable energy.

19 (8) Existing wind-generating resources, if the Energy
20 Commission finds that the existing wind-generating resources are
21 a cost-effective source of reliable and environmental benefits
22 compared with other eligible sources, and that the existing
23 wind-generating resources require financial assistance to remain
24 economically viable, as determined by the Energy Commission.
25 The Energy Commission may require financial disclosure from
26 applicants for the purposes of this paragraph.

27 (d) The commission shall establish a cap on the aggregate
28 amount of funds that may be awarded to public entities from the
29 program that provides customer credits for renewables. The intent
30 of the cap is to assure adequate funding of credits for residential
31 and small commercial customers.

32 (e) Notwithstanding any other provision of law, moneys
33 collected for renewable energy pursuant to this article shall be
34 transferred to the Renewable Resource Trust Fund of the Energy
35 Commission. The Energy Commission shall prepare and submit to
36 the Legislature, on or before March 31, 2001, an initial investment
37 plan for these moneys, addressing the application of moneys
38 collected between January 1, 2002, and January 1, 2007. The
39 initial investment plan shall also include an evaluation of and
40 report to the Legislature regarding the appropriateness and

1 structure of a mandatory state purchase of renewable energy. On
2 or before March 31, 2006, the Energy Commission shall prepare
3 an investment plan proposing the application of moneys collected
4 between January 1, 2007, and January 1, 2012.

5 SEC. 9. Section 399.8 of the Public Utilities Code, as
6 amended by Section 1 of Chapter 770 of the Statutes of 2001, is
7 repealed.

8 SEC. 10. Section 399.8 of the Public Utilities Code, as
9 amended by Section 2 of Chapter 770 of the Statutes of 2001, is
10 amended to read:

11 399.8. (a) In order to ensure that the citizens of this state
12 continue to receive safe, reliable, affordable, and environmentally
13 sustainable electric service, it is the policy of this state and the
14 intent of the Legislature that prudent investments in energy
15 efficiency, renewable energy, and research, development and
16 demonstration shall continue to be made.

17 (b) (1) Every customer of an electrical corporation, shall pay
18 a nonbypassable system benefits charge authorized pursuant to
19 this article. The system benefits charge shall fund energy
20 efficiency, renewable energy, and research, development and
21 demonstration.

22 (2) Local publicly owned electric utilities shall continue to
23 collect and administer system benefits charges pursuant to Section
24 385.

25 (c) (1) The commission shall require each electrical
26 corporation to identify a separate rate component to collect
27 revenues to fund energy efficiency, renewable energy, and
28 research, development and demonstration programs authorized
29 pursuant to this section beginning January 1, 2002, through
30 January 1, 2012. The rate component shall be a nonbypassable
31 element of the local distribution service and collected on the basis
32 of usage.

33 (2) This rate component may not exceed, for any tariff
34 schedule, the level of the rate component that was used to recover
35 funds authorized pursuant to Section 381 on January 1, 2000. If the
36 amounts specified in paragraph (1) of subdivision (d) are not
37 recovered fully in any year, the commission shall reset the rate
38 component to restore the unrecovered balance, provided that the
39 rate component may not exceed, for any tariff schedule, the level
40 of the rate component that was used to recover funds authorized

pursuant to Section 381 on January 1, 2000. Pending restoration, any annual shortfalls shall be allocated pro rata among the three funding categories in the proportions established in paragraph (1) of subdivision (d).

(d) The commission shall order San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company to collect these funds commencing on January 1, 2002, as follows:

(1) Two hundred twenty-eight million dollars (\$228,000,000) per year in total for energy efficiency and conservation activities, one hundred thirty-five million dollars (\$135,000,000) in total per year for renewable energy, and sixty-two million five hundred thousand dollars (\$62,500,000) in total per year for research, development and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (c) of Section 381.

(2) The amounts shall be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined by the gross domestic product deflator.

(e) The commission and the Energy Commission shall retain and continue their oversight responsibilities as set forth in Sections 381 and 383, and Chapter 7.1 (commencing with Section 25620) and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(f) (1) On or before January 1, 2004, the Governor shall appoint an independent review panel including, but not limited to, members with expertise on the energy service needs of large and small electricity consumers, system reliability issues, and energy-related public policy. On or before January 1, 2005, the panel shall prepare and submit to the Legislature and the Energy Commission a report evaluating the energy efficiency, renewable energy, and research, development and demonstration programs funded under this section. Reasonable costs associated with the review in each of the three program categories, including technical assistance, may be charged to the relevant program category under procedures to be developed by the commission for energy efficiency and by the Energy Commission for renewable energy and research development and demonstration.

(2) The report shall also assess all of the following:

1 (A) Whether ongoing programs are consistent with the
2 statutory goals.

3 (B) Whether potential synergies among the program categories
4 described in paragraph (1) that could provide enhanced public
5 value have been identified and incorporated in the programs.

6 (C) If established targets for increased renewable generation
7 are likely to be achieved.

8 (D) What changes should be made to result in a more efficient
9 use of public resources.

10 (3) The report shall also compare the Energy Commission's
11 programs with efforts undertaken by other states and assess, as an
12 alternative, the relative costs and benefits of adopting a tradable
13 minimum renewable energy requirement in California. The
14 evaluation shall include recommendations intended to optimize
15 renewable resource development at the least cost.

16 (4) For energy efficiency programs, the report shall include an
17 evaluation of all of the following:

18 (A) The net benefits secured for residential customers, taking
19 into account both public and private costs, including
20 improvements in that customer group's ability to avoid or reduce
21 consumption of relatively costly peak electricity.

22 (B) Whether the programs provide a balance of benefits to all
23 sectors that contribute to the funding.

24 (C) The extent to which competition in energy markets
25 including, but not limited to, load participation in ancillary
26 services markets, and improvements in technology affect the
27 continuing need for such programs.

28 (D) The status and growth of the private, competitive energy
29 services industry that provides energy efficiency services and
30 other energy products to customers.

31 (E) The commercial availability of any new technologies that
32 reduce electricity demands during high-priced periods.

33 (F) Customers' willingness and ability to reduce consumption
34 or adopt energy efficiency measures without program support.

35 (G) The extent to which the programs have delivered
36 cost-effective energy efficiency not adequately provided by
37 markets and as a result have reduced energy demand and
38 consumption.



(H) The relative cost-effectiveness of program expenditures compared to other current or potential expenditures to enhance system reliability.

(5) The report shall include specific recommendations aimed at assisting the Legislature in determining whether to change or eliminate the collection of the system benefits charge on or after January 1, 2007.

(6) The panel may update and revise the report as needed.

(g) Promptly after receiving the panel's report, the commission shall convene a proceeding to address implementation of the panel's energy efficiency recommendations.

(h) An applicant for the Large Nonresidential Standard Performance Contract Program funded pursuant to paragraph (1) of subdivision (b) and an electrical corporation shall promptly attempt to resolve disputes that arise related to the program's guidelines and parameters prior to entering into a program agreement. The applicant shall provide the electrical corporation with written notice of any dispute. Within 10 business days after receipt of the notice, the parties shall meet to resolve the dispute. If the dispute is not resolved within 10 business days after the date of the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.

~~SEC. 16.~~

SEC. 11. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) (1) "Eligible renewable energy resource" means an electric generating facility that ~~is one of the following:~~

~~(1) The facility meets the definition of "in-state renewable electricity generation technology facility" in Section 383.5.~~

1 25741 of the Public Resources Code, with the following
2 exceptions:

3 ~~(2)~~

4 (A) A geothermal generation facility originally commencing
5 operation prior to September 26, 1996, shall be eligible for
6 purposes of adjusting a retail seller's baseline quantity of eligible
7 renewable energy resources except for output certified as
8 incremental geothermal production by the Energy Commission,
9 provided that the incremental output was not sold to an electrical
10 corporation under contract entered into prior to September 26,
11 1996. For each facility seeking certification, the Energy
12 Commission shall determine historical production trends and
13 establish criteria for measuring incremental geothermal
14 production that recognizes the declining output of existing
15 steamfields and the contribution of capital investments in the
16 facility or wellfield.

17 ~~(3)~~

18 (B) The output of a small hydroelectric generation facility of 30
19 megawatts or less procured or owned by an electrical corporation
20 as of the date of enactment of this article shall be eligible only for
21 purposes of establishing the baseline of an electrical corporation
22 pursuant to paragraph (3) of subdivision (a) of Section 399.15. A
23 new hydroelectric facility is not an eligible renewable energy
24 resource if it will require a new or increased appropriation or
25 diversion of water under Part 2 (commencing with Section 1200)
26 of Division 2 of the Water Code.

27 ~~(4)~~

28 (C) A facility engaged in the *direct* combustion of municipal
29 solid waste shall not be considered an eligible renewable resource
30 unless it is located in Stanislaus County and was operational prior
31 to September 26, 1996. Output from such facilities shall be eligible
32 only for the purpose of adjusting a retail seller's baseline quantity
33 of eligible renewable energy resources.

34 (2) A facility that does not meet the definition of "in-state
35 renewable electricity generation facility" in Section 25741 of the
36 Public Resources Code, solely because it is located out of state, is
37 still an 'Eligible renewable energy resource' under this
38 subdivision if it meets both of the following requirements:

39 (A) It is located so that it is or will be connected to the Western
40 Electricity Coordinating Council (WECC) transmission system.



1 (B) *It participates in a renewable energy certificate based*
2 *tracking system to be developed by the Energy Commission*
3 *pursuant to this subdivision.*

4 (b) “Retail seller” means an entity engaged in the retail sale of
5 electricity to end-use customers, including any of the following:

6 (1) An electrical corporation, as defined in Section 218.

7 (2) A community choice aggregator. The commission shall
8 institute a rulemaking to determine the manner in which a
9 community choice aggregator will participate in the renewables
10 portfolio standard subject to the same terms and conditions
11 applicable to an electrical corporation.

12 (3) An electric service provider, as defined in Section 218.3
13 subject to the following conditions:

14 (A) An electric service provider shall be considered a retail
15 seller under this article for sales to any customer acquiring service
16 after January 1, 2003.

17 (B) An electric service provider shall be considered a retail
18 seller under this article for sales to all its customers beginning on
19 the earlier of January 1, 2006, or the date on which a contract
20 between an electric service provider and a retail customer expires.
21 Nothing on this subdivision may require an electric service
22 provider to disclose the terms of the contract to the commission.

23 (C) The commission shall institute a rulemaking to determine
24 the manner in which electric service providers will participate in
25 the renewables portfolio standard. The electric service provider
26 shall be subject to the same terms and conditions applicable to an
27 electrical corporation pursuant to this article. Nothing in this
28 paragraph shall impair a contract entered into between an electric
29 service provider and a retail customer prior to the suspension of
30 direct access by the commission pursuant to Section 80110 of the
31 Water Code.

32 (4) “Retail seller” does not include any of the following:

33 (A) A corporation or person employing cogeneration
34 technology or producing power consistent with subdivision (b) of
35 Section 218.

36 (B) The Department of Water Resources acting in its capacity
37 pursuant to Division 27 (commencing with Section 80000) of the
38 Water Code.

39 (C) A local publicly owned electrical utility as defined in
40 subdivision (d) of Section 9604.

- 1 (c) “Renewables portfolio standard” means the specified
- 2 percentage of electricity generated by eligible renewable energy
- 3 resources that a retail seller is required to procure pursuant to
- 4 Sections 399.13 and 399.15.
- 5 *SEC. 12.* Section 445 of the Public Utilities Code is repealed.

